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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,555	12/28/2000	Masahiro Ando	G5030.0023 /P023	5633
24998	7590	11/27/2006	EXAMINER	
DICKSTEIN SHAPIRO LLP			NAJARIAN, LENA	
1825 EYE STREET NW			ART UNIT	
Washington, DC 20006-5403			PAPER NUMBER	
			3626	

DATE MAILED: 11/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/749,555

Applicant(s)

ANDO ET AL.

Examiner

Lena Najarian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-10,12-19 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,12-19 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20061004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment filed 10/4/06.  
Claims 1, 2, 4-10, 12-19, and 26 remain pending. Claim 1 has been amended.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 10/4/06 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 9, 12, and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al. (5,976,083) in view of Cox (5,199,068).

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(A) Claim 1 has been amended to now recite wherein said verifying said user's identity is processed a predetermined length of time "after the motion sensor stops sensing the exercise user motion."

As per this feature, the Examiner respectfully submits that Richardson senses "when the user stops locomoting for a fixed period of time" (col. 17, lines 34-36 of Richardson).

Richardson does not expressly disclose verifying said user's identity after the motion sensor stops sensing the motion.

However, Cox teaches verifying a user's identity at random intervals during a session (col. 1, lines 44-64 of Cox).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Cox within Richardson. The motivation for doing so would have been to verify that the person receiving credit is the same person who participated in the session (col. 1, lines 30-36 of Cox).

The remainder of claim 1 is rejected for the same reasons given in the previous Office Action, and incorporated herein.

(B) Claims 2, 9, 12, and 14-19 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

5. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al. (5,976,083) in view of Cox (5,199,068), and further in view of Lang (US 2002/0070954 A1).

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(A) Claims 4-8 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al. (5,976,083) in view of Cox (5,199,068), and further in view of Kulkarni (US 2001/0032098 A1).

(A) Claim 10 has not been amended and is rejected for the same reasons given in the previous Office Action, and incorporated herein.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al. (5,976,083) in view of Cox (5,199,068), and further in view of Heilman et al. (5,078,134).

(A) Claim 13 has not been amended and is rejected for the same reasons given in the previous Office Action, and incorporated herein.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al. (5,976,083) in view of Cox (5,199,068), and further in view of Brown et al. (US 6,601,016 B1).

(A) Claim 26 has not been amended and is rejected for the same reasons given in the previous Office Action, and incorporated herein.

***Response to Arguments***

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9. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Ln*

In

11-22-06

*Joseph Thomas*  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER